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CONSENT

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Bill No: AB 611  
Author: Weber (D)  
Amended: 3/28/23 in Assembly  
Vote: 21

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SENATE EDUCATION COMMITTEE: 7-0, 6/7/23

AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire, Smallwood-Cuevas, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 79-0, 4/27/23 (Consent) - See last page for vote

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**SUBJECT:** Special education: nonpublic, nonsectarian schools or agencies:  
change in certification status: parental notification

**SOURCE:** Author

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**DIGEST:** This bill requires that a local education agency (LEA) contracting with a nonpublic, nonsectarian school or agency (NPS/A) inform parents and guardians if there is a change in the NPS/A's certification status, as specified.

**ANALYSIS:**

Existing law:

- 1) Requires an NPS/A that seeks certification to file an application with the Superintendent of Public Instruction (SPI) on forms provided by the California Department of Education (CDE), with specified information. Requires applicant NPS/A to notify the Special Education Local Plan Area (SELPA) in which it is located.
- 2) Requires the SPI to conduct an onsite review of the facility and program for which the applicant seeks certification and within three years of the effective date of the certification.

- 3) Requires the SPI to annually review the certification of each NPS/A.
- 4) Requires the SPI to conduct an investigation of a NPS/A onsite at any time without prior notice if there is substantial reason to believe that there is an immediate danger to the health, safety, or welfare of a child.
- 5) Requires the SPI to monitor the facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the standards-focused instructional materials used, of an existing certified NPS/A on a three-year cycle. (Education Code (EC) 56366.1)
- 6) Authorizes the SPI to suspend or revoke the certification of a NPS/A for specified reasons, including:
  - a) Violation of an applicable state or federal rule or regulation, or aiding, abetting, or permitting the violation of an applicable state or federal rule or regulation;
  - b) Falsification or intentional misrepresentation of an element of the application, student records, or program presented for certification purposes;
  - c) Conduct in the operation or maintenance of the NPS/A that is harmful to the health, welfare, or safety of an individual with exceptional needs; and
  - d) Failure to comply with a provision in the master contract with the LEA;
  - e) Failure to notify the CDE in writing of any of the following within 45 days of the occurrence of:
    - i) Changes in credentialed, licensed, or registered staff who render special education and related services, ownership, management, or control of the NPS/A;
    - ii) Major modification or relocation of facilities or
    - iii) Significant modification of the NPS/A program.
  - f) Failure to implement recommendations and compliance requirements following an onsite review of the NPS/A;

- g) Failure to provide appropriate services, supplies, equipment, or facilities for a student as required in the student's individualized education program (IEP);
- h) Failure to notify the SPI in writing within 10 days of the revocation or suspension of a license or permit, including, but not limited to, a residential care license, business license, or other required license or permit; and
- i) Failure to implement a student's IEP. (EC 56366.4)

This bill:

- 1) Requires a contracting LEA and charter school, within 14 days of becoming aware of any change to the certification status of a NPS/A, to notify parents and guardians of pupils who attend the NPS/A of the change in certification status.
- 2) Requires these notices to be maintained and made available for inspection upon request of the CDE.

### Comments

- 1) *Need for the bill.* According to the author, "AB 611 seeks to expand transparency between LEAs and the families they serve. Parents put their trust in local school districts when they make recommendations to send students to nonpublic contracting schools. Parents and students deserve to have access to all relevant information in order to make meaningful decisions about their children's education. AB 611 will give families some peace of mind that if the nonpublic school their child is attending has a change in its certification status, that the local district will notify them within two weeks of becoming aware of any change by the state."
- 2) *California's NPS/As.* NPS/As are specialized private, non-sectarian schools that provide services to public school students with disabilities. An LEA pays tuition to an NPS/A to serve students that the LEA is responsible for serving but may not have the capacity to serve within an LEA-run school. According to the CDE, 202 in-state and 47 out-of-state NPS/As served 5,858 and 305 students respectively during the 2022-23 school year. Enrollment in NPS/As declined from 14,258 in 2008 to 6,163 in the 2022-2023 school year.
- 3) *Existing law related to NPS/As.* Current law requires the following oversight of NPSs by the CDE, by requiring the SPI to:

- a) Annually review the certification of each NPS or NPA, and authorizes the SPI to conduct an onsite review as part of the annual review.
- b) Conduct an onsite investigation of an NPS or an NPA at any time without prior notice if there is substantial reason to believe that there is an immediate danger to the health, safety, or welfare of a child.
- c) Conduct an investigation, which may include an unannounced onsite visit, if the SPI receives evidence of a significant deficiency in the quality of educational services provided, making enrollment in an NPS a condition of placement in a licensed children's institution, among other requirements.
- d) Reflect violations or noncompliance in the certification status of the NPS or NPA, at the discretion of the SPI, pending an approved plan of correction by the NPS or NPA. Requires the CDE to retain records of all violations for a period of 10 years.
- e) Monitor the facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the standards-focused instructional materials used, of an existing certified NPS or NPA on a three-year cycle.
- f) Ensure that only those NPSs and NPAs that provide special education and designated instruction and services using staff who hold a certificate, permit, or other document equivalent to that which staff in a public school are required to hold in the service rendered are eligible to receive certification.
- g) Authorizes the SPI to revoke or suspend the certification of an NPS or an NPA for specified reasons, including failure to notify the CDE in writing of any of the following within 45 days of specified occurrences, including failure to notify the SPI in writing within 10 days of the death of a student or any other individual of unnatural causes within the school or agency, and including the circumstances surrounding the death and appropriate preventative measures being taken or recommended.

**FISCAL EFFECT:**      Appropriation:      No      Fiscal Com.:Yes      Local:No

**SUPPORT:** (Verified 6/27/23)

California Association for Behavior Analysis  
California Health Coalition Advocacy

**OPPOSITION:** (Verified 6/27/23)

None received

**ARGUMENTS IN SUPPORT:** California Health Coalition Advocacy writes, “This bill would expand transparency between nonpublic schools and parents and/or guardians of students with exceptional needs in nonpublic schools by requiring LEAs to alert parents and/or guardians via email or mail when a nonpublic school status changes to conditional or suspended or revoked due to a CDE investigation. There have been incidents of the restraint and seclusion of students with exceptional needs which have resulted in a NPS having their certification status changed by the CDE, but parents or guardians are not currently alerted to such changes. It is important that parents and guardians have access to this important information in a timely manner so that they can protect the health and well-being of their children with exceptional needs.”

**ASSEMBLY FLOOR:** 79-0, 4/27/23

**AYES:** Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

**NO VOTE RECORDED:** Jim Patterson

Prepared by: Ian Johnson / ED. / (916) 651-4105  
6/28/23 14:13:42

\*\*\*\* **END** \*\*\*\*